

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA  
ALLENTOWN DIVISION**

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OMOTOSHO DAPO DAYO,

Plaintiff,

v.

OLD NAVY,

Defendant.

Case No.

Removal from Magisterial District Court 15-3-01, Case No.: MJ-15201-cv-0000134-2021

DEFENDANT SYNCHRONY BANK  
(INCORRECTLY SUED AS “OLD  
NAVY”)’S NOTICE OF REMOVAL OF  
CIVIL ACTION UNDER 28 U.S.C. §§ 1331,  
1441, AND 1446

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**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Synchrony Bank (incorrectly sued as “Old Navy”) (“Synchrony”), hereby removes the above-captioned matter to this Court from the Magisterial District Court 15-3-01 in Pennsylvania, where it is currently pending as Case No. MJ-15201-cv-0000134-2021, based upon the following:

**I. BACKGROUND**

1. Plaintiff Omotosho Dapo Dayo (“Plaintiff”) commenced this action in the Magisterial District Court 15-3-01 (“State Court Action”), by filing a Complaint (“Complaint”) on July 26, 2021, a true and correct copy of which is attached hereto as **Exhibit 1**.

2. The State Court Action arises from a dispute regarding a credit card account. *See* Exhibit 1.

3. In his Complaint, Plaintiff alleges that Synchrony is liable for four causes of action: (1) defamation; (2) negligent enablement of identity fraud; (3) violation of the Fair Debt Collection

Practices Act; and (4) violation of the Fair Credit Reporting Act. *See generally*, Exhibit 1 (Complaint).

4. Synchrony received the Complaint on August 20, 2021.<sup>1</sup>

## **II. REMOVAL TO THIS COURT IS PROPER**

5. Removal of this action is proper under 28 U.S.C. § 1441(a), which allows for the removal of any civil action over which the district courts of the United States would have original jurisdiction.

6. Synchrony is removing this matter on the basis of federal question jurisdiction under 28 U.S.C. § 1331.

7. This action is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1331 in that it is a civil action arising under the laws of the United States, specifically the Fair Debt Collection Practices Act and the Fair Credit Reporting Act. *See generally*, Complaint.

8. This Court also has supplemental jurisdiction over the state claims in the Complaint because these claims arise from the same core, operative facts relating to the alleged violations of the violations of the Fair Debt Collection Practices Act and the Fair Credit Reporting Act. Accordingly, the state law claims are related to the federal question claims, and thereby form a part of the same case and controversy pursuant to 28 U.S.C. § 1367(a).

9. Accordingly, had the Complaint been brought in the United States District Court for the Eastern District of Pennsylvania in the first instance, this Court would have had original

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<sup>1</sup> Synchrony asserts that service was improper as it was addressed to Old Navy, and not Synchrony, and served at an Orlando address. *See* Ex. 2. Pennsylvania Rule of Civil Procedure 403 permits service by mail; however, Rule 402(a)(2)(iii) mandates that original service be made at any office or usual place of business of the defendant, to its agent, or to the person for the time being in charge thereof. Here, service was made to an Orlando address which is neither the Synchrony's usual place of business nor the address of its agent or person in charge. Accordingly, service was improper. By filing the within Removal, Synchrony does not wave, and reserves all rights to challenge service.

jurisdiction over the subject matter under 28 U.S.C. § 1331. As a result, this action is properly removable to this Court pursuant to the provisions of 28 U.S.C. § 1441.

10. The Magisterial District Court 15-3-01 is located within the United States District Court for the Eastern District of Pennsylvania. Thus, venue is proper in this Court because it is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

### **III. REMOVAL TO THIS COURT MEETS PROCEDURAL REQUIREMENTS**

11. **Removal is Timely.** Synchrony received the Summons and Complaint on August 20, 2021, and, therefore, this Notice of Removal is timely in that it is filed within thirty days after service upon Synchrony of a copy of the initial pleading setting forth the removable claim. *See* 28 U.S.C. § 1446(b).

12. **Notice.** Synchrony will promptly serve Plaintiff and file with this Court its Notice of Removal to All Adverse Parties, informing Plaintiff that this matter has been removed to federal court. *See* 28 U.S.C. §§ 1446(a), (d). Synchrony will also promptly file with the Clerk of the Magisterial District Court 15-3-01, and serve on Plaintiff, a Notice to Clerk of Removal to Federal Court, pursuant to 28 U.S.C. § 1446(d).

13. **Bond and Verification.** Pursuant to Section 1016 of the Judicial Improvements and Access to Justice Act of 1988, no bond is required in connection with this Notice of Removal. Pursuant to Section 1016 of the Act, this Notice need not be verified.

14. **Signature.** This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11. *See* 28 U.S.C. § 1446(a).

15. **No Waiver of Defenses.** Synchrony has good and sufficient defenses to this action and does not waive any defenses, jurisdictional or otherwise, by the filing of this notice.

16. **Pleadings and process have been provided.** Pursuant to 28 U.S.C. § 1446(a), Synchrony has attached a copy of the docket from the State Court Action as **Exhibit 2**. Synchrony will supplement this Removal with remaining pleadings and orders filed with the State Court in the State Court Action, if any, as soon as they are received.

17. **This is the Only Request for Removal.** Synchrony has not made a previous application for the relief requested herein.

WHEREFORE, Synchrony respectfully requests this case be removed from the Magisterial District Court 15-3-01 to this Court, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446.

DATED this the 8<sup>th</sup> day of September, 2021.

/s/ Samantha J. Chugh

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